

PART 1313—INCENTIVE GRANT CRITERIA FOR DRUNK DRIVING PREVENTION PROGRAMS

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AUTHORITY: 23 U.S.C. 410; delegation of authority at 49 CFR 1.50.

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§ 1313.1 Scope.

This part establishes criteria, in accordance with 23 U.S.C. 410, for awarding incentive grants to States that adopt and implement comprehensive drunk driving prevention programs which include measures that will improve the effectiveness of the enforcement of State drunk and drugged driving laws.

[57 FR 29011, June 30, 1992, as amended at 58 FR 21655, Apr. 23, 1993]

§ 1313.2 Purpose.

The purpose of this part is to encourage States to adopt and implement comprehensive drunk driving prevention programs which include measures that will discourage individuals from operating motor vehicles while under the influence of alcohol. The criteria established are intended to ensure that the State drunk driving prevention programs for which incentive grants are awarded meet or exceed minimum levels designed to improve the effectiveness of the enforcement of State drunk driving laws. This part also encourages States to adopt and implement drugged driving prevention programs.

§ 1313.3 Definitions.

(a) *Alcoholic beverage* has the meaning given such term in § 1208.3 of this title, which implements section 158(c) of the National Minimum Drinking Age Act, 23 U.S.C. 158.

(b) A *comprehensive drunk driving prevention program* means a program that reflects the complexity and totality of the State's alcohol traffic safety problems, incorporates multiple approaches to these problems over a sustained period of time and ensures that public and private entities work in concert to address these problems. The program must include, at a minimum, the following components:

(1) Regularly conducted, peak-hour traffic enforcement efforts consisting of measures, such as roadside sobriety checkpoints or special DWI patrols;

(2) DWI prosecution, adjudication and sanctioning resources adequate to handle increased levels of DWI arrests;

(3) Other programs directed at forms of prevention other than enforcement and adjudication activities, such as school, worksite or community education; designated driver programs; transportation alternatives; responsible alcohol service programs; server training or treatment programs and

(4) A public information program designed to make the public aware of the problem of drunk driving and of the efforts in place to address it.

(c) *Controlled Substance* has the meaning given such term under section 102(6) of the Controlled Substances Act, 21 U.S.C. 802(6).

(d) *Fines or surcharges collected* means fines, penalties, fees or additional assessments collected.

(e) *Imprisonment* means confinement in a jail, minimum security facility, community corrections facility, inpatient rehabilitation or treatment center, or other facility, provided the individual under confinement is in fact being detained. It does not include house arrest.

(f) *Motor vehicle* has the meaning given such term in § 659.5(c) of this title, which implements 23 U.S.C. 154, the National Maximum Speed Limit Act.

(g) *Open alcoholic beverage container* means any bottle, can, or other receptacle:

(1) Which contains any amount of an alcoholic beverage and

(2)(i) Which is open or has a broken seal or

(ii) The contents of which are partially removed.

(h) *Operating a motor vehicle while under the influence of alcohol or under the influence of alcohol while operating the motor vehicle* means operating a vehicle while the alcohol concentration in the blood or breath is 0.10 or more grams of alcohol per 100 milliliters of blood or 0.10 or more grams of alcohol per 210 liters of breath, as determined by chemical or other tests.

(i) *Repeat offender* means any person who a law enforcement officer has probable cause under State law to believe has committed an alcohol-related traffic offense, and to whom is administered one or more chemical tests to determine whether the individual was under the influence of alcohol while operating the motor vehicle and who is determined, as a result of such tests, to be under the influence of alcohol, or who refuses to submit to such a test as proposed by the officer, more than once in any 5-year period beginning on or after December 18, 1991.

(j) *Serious bodily injury* means an injury, other than a fatal injury, which prevents injured persons from walking, driving or normally continuing the activities they were capable of performing before the injury occurred.

(k) With regard to an individual's driver's license, *suspension or revocation* means:

(1) For first offenses (other than refusals), the temporary debarring of all driving privileges for a term of not less than 90 days, or not less than 30 days followed immediately by a term of not less than 60 days of a restricted, provisional or conditional license. A restricted, provisional or conditional license may be issued only in accordance with a State law, regulation or binding policy directive establishing the conditions under which a restricted, provisional or conditional license may be issued or with statewide published guidelines and in exceptional circumstances specific to the offender.

(2) For refusal to take a chemical test for first offenses, the temporary debarring of all driving privileges for a term of not less than 90 days.

(3) For second and subsequent offenses, including the refusal to take a chemical test, the temporary debarring of all driving privileges for a term of not less than one year.

(l) With regard to an individual's registration and license plates, *suspension and return* means the temporary debarring of the privilege to operate or maintain a particular registered motor vehicle on the public highways and the confiscation or impoundment of motor vehicle or the motor vehicle's license plates for not less than the term(s) for which the individual's driver's license will be under suspension or revocation.

[57 FR 29011, June 30, 1992, as amended at 58 FR 21655, Apr. 23, 1993]

§ 1313.4 General requirements.

(a) *Qualification requirements.* To qualify for a grant under 23 U.S.C. 410, a State must, for each year it seeks to qualify:

(1) Submit an application to Regional Operations, NRO-01, 400 Seventh Street SW., Washington, DC 20590 that demonstrates that it meets the requirements of § 1313.5 and, if applicable, § 1313.6, and includes certifications that:

(i) It has a drunk driving prevention program that meets those requirements;

(ii) It will use the funds awarded under 23 U.S.C. 410 only for the implementation and enforcement of drunk driving prevention programs;

(iii) It will administer the funds in accordance with 49 CFR part 18 and OMB Circulars A-102 and A-87 and

(iv) It will maintain its aggregate expenditures from all other sources for its drunk driving prevention programs at or above the average level of such expenditures in fiscal years 1990 and 1991 (either State or Federal fiscal year 1990 and 1991 can be used); and

(2) After being informed by NHTSA that it is eligible for a grant, submit to the agency, within 120 days, a drunk driving prevention plan for one or more years, as applicable, that describes the programs the State is and will be implementing in order to be eligible for the grant and that provides the necessary information, identified in § 1313.5 and § 1313.6, to demonstrate that the programs comply with the applicable criteria. The plan must also describe how the specific supplemental criteria adopted by a State are related to the State's overall drunk driving prevention program.